

## Article 15.

### Penalties and Actions.

#### **§ 62-310. Public utility violating any provision of Chapter, rules or orders; penalty; enforcement by injunction.**

(a) Any public utility which violates any of the provisions of this Chapter or refuses to conform to or obey any rule, order or regulation of the Commission shall, in addition to the other penalties prescribed in this Chapter forfeit and pay a sum up to one thousand dollars (\$1,000) for each offense, to be recovered in an action to be instituted in the Superior Court of Wake County, in the name of the State of North Carolina on the relation of the Utilities Commission; and each day such public utility continues to violate any provision of this Chapter or continues to refuse to obey or perform any rule, order or regulation prescribed by the Commission shall be a separate offense.

(b) If any person or corporation shall furnish water or sewer utility service in violation of any provision of this Chapter applicable to water or sewer utilities, except as to the reasonableness of rates or charges and the discriminatory character thereof, or shall provide such service in violation of any rule, regulation or order of the Commission, the Commission shall apply to a superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or 7A-48 in the district or set of districts as defined in G.S. 7A-41.1 in which the person or corporation so operates, for the enforcement of any provision of this Chapter or of any rule, regulation or order of the Commission. The court shall have jurisdiction to enforce obedience to this Chapter or to any rule, regulation or order of the Commission by appropriate writ, order or other process restraining such person, corporation, or their representatives from further violation of this Chapter or of any rule, regulation or order of the Commission. (1899, c. 164, s. 23; Rev., s. 1087; C.S., s. 1106; 1933, c. 134, s. 8; c. 307, ss. 36, 37; 1941, c. 97; 1963, c. 1165, s. 1; 1973, c. 1073; 1987 (Reg. Sess., 1988), c. 1037, s. 96.)

#### **§ 62-311. Willful acts of employees deemed those of public utility.**

The willful act of any officer, agent, or employee of a public utility, acting within the scope of his official duties of employment, shall, for the purpose of this Article, be deemed to be the willful act of the utility. (1933, c. 307, s. 29; 1963, c. 1165, s. 1.)

#### **§ 62-312. Actions to recover penalties.**

Except as otherwise provided in this Chapter, an action for the recovery of any penalty under this Chapter shall be instituted in Wake County, and shall be instituted in the name of the State of North Carolina on the relation of the Utilities Commission against the person incurring such penalty; or whenever such action is upon the complaint of any injured person, it shall be instituted in the name of the State of North Carolina on the relation of the Utilities Commission upon the complaint of such injured person against the person incurring such penalty. Such action may be instituted and prosecuted by the Attorney General, the district attorney of the Wake County Superior Court, or the injured person. The procedure in such actions, the right of appeal and the rules regulating appeals shall be the same as provided by law in other civil actions. (Code, s. 1976; 1885, c. 221; 1899, c. 164, ss. 8, 15; Rev., ss. 1092, 1113, 2647; C.S., ss. 1062, 1111, 3415; 1933, c. 134, s. 8; c. 307, s. 30; 1941, c. 97; 1963, c. 1165, s. 1; 1973, c. 47, s. 2.)

**§ 62-313. Refusal to permit Commission to inspect records made misdemeanor.**

Any public utility, its officers or agents in charge thereof, that fails or refuses upon the written demand of the Commission, or a majority of said Commission, and under the seal of the Commission, to permit the Commission, its authorized representatives or employees to examine and inspect its books, records, accounts and documents, or its plant, property, or facilities, as provided for by law, shall be guilty of a Class 3 misdemeanor. Each day of such failure or refusal shall constitute a separate offense and each such offense shall be punishable only by a fine of not less than five hundred dollars (\$500.00) and not more than five thousand dollars (\$5,000). (1963, c. 1165, s. 1; 1993, c. 539, s. 483; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 62-314. Violating rules, with injury to others.**

If any public utility doing business in this State by its agents or employees shall be guilty of the violation of the rules and regulations provided and prescribed by the Commission, and if after due notice of such violation given to the principal officer thereof, if residing in the State, or, if not, to the manager or superintendent or secretary or treasurer if residing in the State, or, if not, then to any local agent thereof, ample and full recompense for the wrong or injury done thereby to any person as may be directed by the Commission shall not be made within 30 days from the time of such notice, such public utility shall incur a penalty for each offense of five hundred dollars (\$500.00). (1899, c. 164, s. 15; Rev., s. 1086; C.S., s. 1105; 1933, c. 134, s. 8; 1941, c. 97; 1963, c. 1165, s. 1.)

**§ 62-315. Failure to make report; obstructing Commission.**

Every officer, agent or employee of any public utility, who shall willfully neglect or refuse to make and furnish any report required by the Commission for the purposes of this Chapter, or who shall willfully or unlawfully hinder, delay or obstruct the Commission in the discharge of the duties hereby imposed upon it, shall forfeit and pay five hundred dollars (\$500.00) for each offense, to be recovered in an action in the name of the State. A delay of 10 days to make and furnish such report shall raise the presumption that the same was willful. (1899, c. 164, s. 18; Rev., s. 1089; C.S., s. 1108; 1933, c. 134, s. 8; 1941, c. 97; 1963, c. 1165, s. 1.)

**§ 62-316. Disclosure of information by employee of Commission unlawful.**

It shall be unlawful for any agent or employees of the Commission knowingly and willfully to divulge any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of this Chapter, except as he may be directed by the Commission or by a court or judge thereof. (1947, c. 1008, s. 30; 1949, c. 1132, s. 30; 1953, c. 1140, s. 4; 1957, c. 1152, s. 16; 1961, c. 472, ss. 8, 11; 1963, c. 1165, s. 1; 1971, c. 736, s. 1.)

**§ 62-317. Remedies for injuries cumulative.**

The remedies given by this Chapter to persons injured shall be regarded as cumulative to the remedies otherwise provided by law against public utilities. (1899, c. 164, s. 26; Rev., s. 1093; C.S., s. 1112; 1963, c. 1165, s. 1.)

**§ 62-318. Allowing or accepting rebates a misdemeanor.**

If any person shall participate in illegally pooling freights or shall directly or indirectly allow or accept rebates on freights, he shall be guilty of a Class 1 misdemeanor. (1879, c. 237, s. 2; Code, s. 1968; Rev., s. 3762; C.S., s. 3520; 1963, c. 1165, s. 1; 1993, c. 539, s. 484; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 62-319. Riding on train unlawfully; venue.**

If any person, with the intention of being transported free in violation of law, rides or attempts to ride on top of any car, coach, engine or tender, on any railroad in this State, or on the drawheads between cars, or under cars, on truss rods, or trucks, or in any freight car, or on a platform of any baggage car, express car or mail car on any train, he shall be guilty of a Class 3 misdemeanor. Any person charged with a violation of this section may be tried in any county in this State through which such train may pass carrying such person, or in any county in which such violation may have occurred or may be discovered. (1899, c. 625; 1905, c. 32; Rev., s. 3748; C.S., s. 3508; 1963, c. 1165, s. 1; 1993, c. 539, s. 485; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 62-320: Repealed by Session Laws 1995, c. 523, s. 30.**

**§ 62-321. Penalty for nondelivery of intrastate telegraph message.**

Any telegraph company doing business in this State that shall fail to transmit and deliver any intrastate message within a reasonable time shall forfeit and pay to anyone who may sue for same a penalty of twenty-five dollars (\$25.00). Such penalty shall be in addition to any right of action that any person may have for the recovery of damages. Proof of the sending of any message from one point in this State to another point in this State shall be prima facie evidence that it is an intrastate message. (1919, c. 175; C.S., s. 1704; 1963, c. 1165, s. 1.)

**§ 62-322. Unauthorized manufacture or sale of switch-lock keys a misdemeanor.**

It shall be unlawful for any person to make, manufacture, sell or give away to any other person any duplicate key to any lock used by any railroad company in this State on its switches or switch tracks, except upon the written order of that officer of such railroad company whose duty it is to distribute and issue switch-lock keys to the employees of such railroad company. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor. (1909, c. 795; C.S., s. 3477; 1963, c. 1165, s. 1; 1993, c. 539, s. 487; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 62-323. Willful injury to property of public utility a misdemeanor.**

If any person shall willfully do or cause to be done any act or acts whatever whereby any building, construction or work of any public utility, or any engine, machine or structure or any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured or destroyed, he shall be guilty of a Class 1 misdemeanor. (1871-2, c. 138, s. 39; Code, s. 1974; Rev., s. 3756; C.S., s. 3478; 1963, c. 1165, s. 1; 1993, c. 539, s. 488; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 62-324. Disclosure of information as to shipments unlawful.**

(a) It shall be unlawful for any common carrier engaged in intrastate commerce or any officer, receiver, trustee, lessee, agent, or employee of such carrier, or for any other person authorized by such carrier, to receive information, knowingly to disclose to, or permit to be acquired by any person other than the shipper or consignee without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such common carrier for such transportation, which information may be used to the detriment or prejudice of such shipper or consignee, or which may improperly disclose his business transactions to a competitor; and it shall also be unlawful for any person to solicit or knowingly receive any such information which may be so used.

(b) Nothing in this section shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or any officer or agent of the State or of the government of the United States, in the exercise of his power, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crimes or to another carrier, or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such carriers. (1947, c. 1008, s. 30; 1961, c. 472, s. 8; 1963, c. 1165, s. 1.)

#### **§ 62-325. Unlawful motor carrier operations.**

(a) Any person, whether carrier, passenger, shipper, consignee, or any officer, employee, agent, or representative thereof, who shall knowingly offer, grant, or give or solicit, accept, or receive any rebate, concession, or discrimination in violation of any provision of this Chapter, or who by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, shall knowingly and willfully by any such means or otherwise fraudulently seek to evade or defeat regulations as in this Chapter provided for motor carriers, shall be deemed guilty of a Class 3 misdemeanor and upon conviction thereof only be fined not more than five hundred dollars (\$500.00) for the first offense and not more than two thousand dollars (\$2,000) for any subsequent offense.

(b) Any motor carrier, or other person, or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse to make a report to the Commission as required by this Article, or other applicable law, or to make specific and full, true, and correct answer to any question within 30 days from the time it is lawfully required by the Commission so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Commission, or shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully neglect or fail to make true and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, or person required under this Article to keep the same, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, shall be deemed guilty of a Class 3 misdemeanor and upon conviction thereof only be subject for each offense to a fine of not more than five thousand dollars (\$5,000). As used in this subsection the words "kept" and "keep" shall be construed to mean made, prepared, or compiled, as well as retained. It shall be the duty of the Commission to prescribe and enforce such general rules and regulations as it may deem necessary to compel all motor carriers to keep accurate records of all revenue received by them to the end that any tax levied and assessed by the State of North Carolina upon revenues may be collected. Any agent or employee of a motor

carrier who shall willfully and knowingly make a false report or record of fares, charges, or other revenue received by a carrier or collected in its behalf shall be guilty of a Class 1 misdemeanor.

(c) Any person who, at any bus terminal, solicits or otherwise attempts to induce any person to use some form of transportation for compensation other than that lawfully using said terminal premises by contract with the terminal operator or by valid order of the Commission shall be guilty of a Class 3 misdemeanor. (1947, c. 1008, s. 30; 1949, c. 1132, s. 30; 1953, c. 1140, s. 4; 1957, c. 1152, s. 16; 1961, c. 472, ss. 8, 11; 1963, c. 1165, s. 1; 1993, c. 539, s. 489; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 62-326. Furnishing false information to the Commission; withholding information from the Commission.**

(a) Every person, firm or corporation operating under the jurisdiction of the Utilities Commission or who is required by law to file reports with the Commission who shall knowingly or willfully file or give false information to the Utilities Commission in any report, reply, response, or other statement or document furnished to the Commission shall be guilty of a Class 1 misdemeanor.

(b) Every person, firm, or corporation operating under the jurisdiction of the Utilities Commission or who is required by law to file reports with the Commission who shall willfully withhold clearly specified and reasonably obtainable information from the Commission in any report, response, reply or statement filed with the Commission in the performance of the duties of the Commission or who shall fail or refuse to file any report, response, reply or statement required by the Commission in the performance of the duties of the Commission shall be guilty of a Class 1 misdemeanor. (1969, c. 765, s. 1; 1993, c. 539, s. 490; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 62-327. Gifts to members of Commission, Commission employees, or public staff.**

It shall be unlawful for any officer, agent, employee, or attorney of any public utility or any public utility holding company, subsidiary, or affiliated company, to knowingly offer or make to any member of the Commission, Commission staff, or public staff, any gift of money, property, or anything of value. It shall be unlawful for any member of the Commission, Commission staff, or public staff to knowingly accept any gift of money, property, or anything of value from any officer, agent, employee, or attorney of any public utility or any public utility holding company, subsidiary, or affiliated company; provided, however, that it shall not be unlawful for members of the Commission, Commission staff, or public staff to attend public breakfasts, lunches, dinners, or banquets sponsored by such entities. Any person violating this section shall be guilty of a Class 3 misdemeanor and may only be fined in the discretion of the court; provided, further, that any member of the Commission staff, or member of the public staff violating this section shall also be subject to dismissal for cause. (1977, c. 468, s. 16; 1993, c. 539, s. 491; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 62-328. Unauthorized use of Citizens Band equipment.**

(a) As used in this section, "Citizens Band radio equipment" means Citizens Band radio equipment authorized by the Federal Communications Commission.

(b) It shall be unlawful for any person willfully and knowingly to use Citizens Band radio equipment not authorized by the Federal Communications Commission. Unauthorized Citizens

Band radio equipment includes the use of power amplifiers or equipment prohibited under applicable federal regulations.

(c) This section does not apply to any licensee that is exempted under the provisions of 47 U.S.C. § 302a(f)(2).

(d) Any person willfully and knowingly violating the provisions of this section shall be guilty of a Class 3 misdemeanor. (2004-72, s. 1.)

**§ 62-329:** Reserved for future codification.

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